

Adopted	Rejected
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COMMITTEE REPORT

YES:	11
NO:	1

MR. SPEAKER:

*Your Committee on Employment and Labor, to which was referred Senate Bill 139, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 professions and occupations and to make an appropriation.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 10-13-3-37 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 37. (a) Under Public
- 8 Law 92-544 (86 Stat. 1115), a local law enforcement agency may use
- 9 fingerprints submitted for the purpose of identification in a request
- 10 related to the following:
- 11 (1) A taxicab driver's license application.
- 12 ~~(2) An application for a license for a massage therapist.~~
- 13 ~~(3) (2)~~ Reinstatement or renewal of a **taxicab driver's** license.
- 14 ~~described in subdivisions (1) and (2).~~
- 15 (b) An applicant shall submit the fingerprints on forms provided for
- 16 the license application.

(c) The local law enforcement agency shall charge each applicant the fees set by the department and federal authorities to defray the costs associated with a search for and classification of the applicant's fingerprints.

(d) The local law enforcement agency may:

(1) forward for processing to the Federal Bureau of Investigation or any other agency fingerprints submitted by a license applicant; and

(2) receive the results of all fingerprint investigations.

SECTION 2. IC 25-1-2-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.1. Rather than being issued annually, the following permits, licenses, certificates of registration, or evidences of authority granted by a state agency must be issued for a period of two (2) years or for the period specified in the article under which the permit, license, certificate of registration, or evidence of authority is issued if the period specified in the article is longer than two (2) years:

(1) Certified public accountants, public accountants, and accounting practitioners.

(2) Architects and landscape architects.

(3) Dry cleaners.

(4) Professional engineers.

(5) Land surveyors.

(6) Real estate brokers.

(7) Real estate agents.

(8) Security dealers' licenses issued by the securities commissioner.

(9) Dental hygienists.

(10) Dentists.

(11) Veterinarians.

(12) Physicians.

(13) Chiropractors.

(14) Physical therapists.

(15) Optometrists.

(16) Pharmacists and assistants, drugstores or pharmacies.

(17) Motels and mobile home park licenses.

(18) Nurses.

(19) Podiatrists.

- 1 (20) Occupational therapists and occupational therapy assistants.
- 2 (21) Respiratory care practitioners.
- 3 (22) Social workers, marriage and family therapists, and mental
- 4 health counselors.
- 5 (23) Real estate appraiser licenses and certificates issued by the
- 6 real estate appraiser licensure and certification board.
- 7 (24) Wholesale legend drug distributors.
- 8 (25) Physician assistants.
- 9 (26) Dietitians.
- 10 (27) Hypnotists.
- 11 (28) Athlete agents.
- 12 (29) Manufactured home installers.
- 13 (30) Home inspectors.
- 14 **(31) Massage therapists.**
- 15 **(32) Interior designers.**
- 16 SECTION 3. IC 25-1-2-6 IS AMENDED TO READ AS
- 17 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) As used in this
- 18 section, "license" includes all occupational and professional licenses,
- 19 registrations, permits, and certificates issued under the Indiana Code,
- 20 and "licensee" includes all occupational and professional licensees,
- 21 registrants, permittees, and certificate holders regulated under the
- 22 Indiana Code.
- 23 (b) This section applies to the following entities that regulate
- 24 occupations or professions under the Indiana Code:
- 25 (1) Indiana board of accountancy.
- 26 (2) Indiana grain buyers and warehouse licensing agency.
- 27 (3) Indiana auctioneer commission.
- 28 (4) Board of registration for architects and landscape architects.
- 29 (5) State board of barber examiners.
- 30 (6) State board of cosmetology examiners.
- 31 (7) Medical licensing board of Indiana.
- 32 (8) Secretary of state.
- 33 (9) State board of dentistry.
- 34 (10) State board of funeral and cemetery service.
- 35 (11) Worker's compensation board of Indiana.
- 36 (12) Indiana state board of health facility administrators.
- 37 (13) Committee of hearing aid dealer examiners.
- 38 (14) Indiana state board of nursing.

- 1 (15) Indiana optometry board.
- 2 (16) Indiana board of pharmacy.
- 3 (17) Indiana plumbing commission.
- 4 (18) Board of podiatric medicine.
- 5 (19) Private detectives licensing board.
- 6 (20) State board of registration for professional engineers.
- 7 (21) Board of environmental health specialists.
- 8 (22) State psychology board.
- 9 (23) Indiana real estate commission.
- 10 (24) Speech-language pathology and audiology board.
- 11 (25) Department of natural resources.
- 12 (26) State boxing commission.
- 13 (27) Board of chiropractic examiners.
- 14 (28) Mining board.
- 15 (29) Indiana board of veterinary medical examiners.
- 16 (30) State department of health.
- 17 (31) Indiana physical therapy committee.
- 18 (32) Respiratory care committee.
- 19 (33) Occupational therapy committee.
- 20 (34) Social worker, marriage and family therapist, and mental
- 21 health counselor board.
- 22 (35) Real estate appraiser licensure and certification board.
- 23 (36) State board of registration for land surveyors.
- 24 (37) Physician assistant committee.
- 25 (38) Indiana dietitians certification board.
- 26 (39) Indiana hypnotist committee.
- 27 (40) Attorney general (only for the regulation of athlete agents).
- 28 (41) Manufactured home installer licensing board.
- 29 (42) Home inspectors licensing board.
- 30 **(43) State board of massage therapy.**
- 31 ~~(43)~~ **(44)** Any other occupational or professional agency created
- 32 after June 30, 1981.
- 33 (c) Notwithstanding any other law, the entities included in
- 34 subsection (b) shall send a notice of the upcoming expiration of a
- 35 license to each licensee at least sixty (60) days prior to the expiration
- 36 of the license. The notice must inform the licensee of the need to renew
- 37 and the requirement of payment of the renewal fee. If this notice of
- 38 expiration is not sent by the entity, the licensee is not subject to a

1 sanction for failure to renew if, once notice is received from the entity,
 2 the license is renewed within forty-five (45) days of the receipt of the
 3 notice."

4 Page 2, between lines 27 and 28, begin a new line block indented
 5 and insert:

6 **"(16) State board of massage therapy (IC 25-21.8-3-1)."**

7 Page 6, between lines 11 and 12, begin a new paragraph and insert:

8 "SECTION 9. IC 25-1-7-1 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this
 10 chapter:

11 "Board" means the appropriate agency listed in the definition of
 12 regulated occupation in this section.

13 "Director" refers to the director of the division of consumer
 14 protection.

15 "Division" refers to the division of consumer protection, office of the
 16 attorney general.

17 "Licensee" means a person who is:

18 (1) licensed, certified, or registered by a board listed in this
 19 section; and

20 (2) the subject of a complaint filed with the division.

21 "Person" means an individual, a partnership, a limited liability
 22 company, or a corporation.

23 "Regulated occupation" means an occupation in which a person is
 24 licensed, certified, or registered by one (1) of the following:

25 (1) Indiana board of accountancy (IC 25-2.1-2-1).

26 (2) Board of registration for architects and landscape architects
 27 (IC 25-4-1-2).

28 (3) Indiana auctioneer commission (IC 25-6.1-2-1).

29 (4) State board of barber examiners (IC 25-7-5-1).

30 (5) State boxing commission (IC 25-9-1).

31 (6) Board of chiropractic examiners (IC 25-10-1).

32 (7) State board of cosmetology examiners (IC 25-8-3-1).

33 (8) State board of dentistry (IC 25-14-1).

34 (9) State board of funeral and cemetery service (IC 25-15-9).

35 (10) State board of registration for professional engineers
 36 (IC 25-31-1-3).

37 (11) Indiana state board of health facility administrators
 38 (IC 25-19-1).

- 1 (12) Medical licensing board of Indiana (IC 25-22.5-2).
- 2 (13) Indiana state board of nursing (IC 25-23-1).
- 3 (14) Indiana optometry board (IC 25-24).
- 4 (15) Indiana board of pharmacy (IC 25-26).
- 5 (16) Indiana plumbing commission (IC 25-28.5-1-3).
- 6 (17) Board of podiatric medicine (IC 25-29-2-1).
- 7 (18) Board of environmental health specialists (IC 25-32-1).
- 8 (19) State psychology board (IC 25-33).
- 9 (20) Speech-language pathology and audiology board
- 10 (IC 25-35.6-2).
- 11 (21) Indiana real estate commission (IC 25-34.1-2).
- 12 (22) Indiana board of veterinary medical examiners (IC 15-5-1.1).
- 13 (23) Department of natural resources for purposes of licensing
- 14 water well drillers under IC 25-39-3.
- 15 (24) Respiratory care committee (IC 25-34.5).
- 16 (25) Private detectives licensing board (IC 25-30-1-5.1).
- 17 (26) Occupational therapy committee (IC 25-23.5).
- 18 (27) Social worker, marriage and family therapist, and mental
- 19 health counselor board (IC 25-23.6).
- 20 (28) Real estate appraiser licensure and certification board
- 21 (IC 25-34.1-8).
- 22 (29) State board of registration for land surveyors
- 23 (IC 25-21.5-2-1).
- 24 (30) Physician assistant committee (IC 25-27.5).
- 25 (31) Indiana athletic trainers board (IC 25-5.1-2-1).
- 26 (32) Indiana dietitians certification board (IC 25-14.5-2-1).
- 27 (33) Indiana hypnotist committee (IC 25-20.5-1-7).
- 28 (34) Indiana physical therapy committee (IC 25-27).
- 29 (35) Manufactured home installer licensing board (IC 25-23.7).
- 30 (36) Home inspectors licensing board (IC 25-20.2-3-1).
- 31 **(37) State board of massage therapy (IC 25-21.8-3-1).**
- 32 **(38) Office of the secretary of state for purposes of registering**
- 33 **interior designers (IC 25-20.7).**
- 34 ~~(37)~~ **(39)** Any other occupational or professional agency created
- 35 after June 30, 1981.
- 36 SECTION 10. IC 25-1-8-1 IS AMENDED TO READ AS
- 37 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this
- 38 chapter, "board" means any of the following:

- 1 (1) Indiana board of accountancy (IC 25-2.1-2-1).
- 2 (2) Board of registration for architects and landscape architects
- 3 (IC 25-4-1-2).
- 4 (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- 5 (4) State board of barber examiners (IC 25-7-5-1).
- 6 (5) State boxing commission (IC 25-9-1).
- 7 (6) Board of chiropractic examiners (IC 25-10-1).
- 8 (7) State board of cosmetology examiners (IC 25-8-3-1).
- 9 (8) State board of dentistry (IC 25-14-1).
- 10 (9) State board of funeral and cemetery service (IC 25-15).
- 11 (10) State board of registration for professional engineers
- 12 (IC 25-31-1-3).
- 13 (11) Indiana state board of health facility administrators
- 14 (IC 25-19-1).
- 15 (12) Medical licensing board of Indiana (IC 25-22.5-2).
- 16 (13) Mining board (IC 22-10-1.5-2).
- 17 (14) Indiana state board of nursing (IC 25-23-1).
- 18 (15) Indiana optometry board (IC 25-24).
- 19 (16) Indiana board of pharmacy (IC 25-26).
- 20 (17) Indiana plumbing commission (IC 25-28.5-1-3).
- 21 (18) Board of environmental health specialists (IC 25-32-1).
- 22 (19) State psychology board (IC 25-33).
- 23 (20) Speech-language pathology and audiology board
- 24 (IC 25-35.6-2).
- 25 (21) Indiana real estate commission (IC 25-34.1-2-1).
- 26 (22) Indiana board of veterinary medical examiners
- 27 (IC 15-5-1.1-3).
- 28 (23) Department of insurance (IC 27-1).
- 29 (24) State police department (IC 10-11-2-4), for purposes of
- 30 certifying polygraph examiners under IC 25-30-2.
- 31 (25) Department of natural resources for purposes of licensing
- 32 water well drillers under IC 25-39-3.
- 33 (26) Private detectives licensing board (IC 25-30-1-5.1).
- 34 (27) Occupational therapy committee (IC 25-23.5-2-1).
- 35 (28) Social worker, marriage and family therapist, and mental
- 36 health counselor board (IC 25-23.6-2-1).
- 37 (29) Real estate appraiser licensure and certification board
- 38 (IC 25-34.1-8).

- 1 (30) State board of registration for land surveyors
- 2 (IC 25-21.5-2-1).
- 3 (31) Physician assistant committee (IC 25-27.5).
- 4 (32) Indiana athletic trainers board (IC 25-5.1-2-1).
- 5 (33) Board of podiatric medicine (IC 25-29-2-1).
- 6 (34) Indiana dietitians certification board (IC 25-14.5-2-1).
- 7 (35) Indiana physical therapy committee (IC 25-27).
- 8 (36) Manufactured home installer licensing board (IC 25-23.7).
- 9 (37) Home inspectors licensing board (IC 25-20.2-3-1).
- 10 **(38) State board of massage therapy (IC 25-21.8-3-1).**
- 11 **(39) Office of the secretary of state for purposes of registering**
- 12 **interior designers (IC 25-20.7).**
- 13 ~~(38)~~ **(40)** Any other occupational or professional agency created
- 14 after June 30, 1981."
- 15 Page 6, between lines 37 and 38, begin a new paragraph and insert:
- 16 "SECTION 12. IC 25-1-11-1 IS AMENDED TO READ AS
- 17 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this
- 18 chapter, "board" means any of the following:
- 19 (1) Indiana board of accountancy (IC 25-2.1-2-1).
- 20 (2) Board of registration for architects and landscape architects
- 21 (IC 25-4-1-2).
- 22 (3) Indiana auctioneer commission (IC 25-6.1-2).
- 23 (4) State board of barber examiners (IC 25-7-5-1).
- 24 (5) State boxing commission (IC 25-9-1).
- 25 (6) State board of cosmetology examiners (IC 25-8-3-1).
- 26 (7) State board of registration of land surveyors (IC 25-21.5-2-1).
- 27 (8) State board of funeral and cemetery service (IC 25-15-9).
- 28 (9) State board of registration for professional engineers
- 29 (IC 25-31-1-3).
- 30 (10) Indiana plumbing commission (IC 25-28.5-1-3).
- 31 (11) Indiana real estate commission (IC 25-34.1-2-1).
- 32 (12) Real estate appraiser licensure certification board
- 33 (IC 25-34.1-8).
- 34 (13) Private detectives licensing board (IC 25-30-1-5.1).
- 35 (14) Manufactured home installer licensing board (IC 25-23.7).
- 36 (15) Home inspectors licensing board (IC 25-20.2-3-1).
- 37 **(16) State board of massage therapy (IC 25-21.8-3-1).**
- 38 **(17) Office of the secretary of state (IC 25-20.7)."**

1 Page 8, between lines 10 and 11, begin a new paragraph and insert:
 2 "SECTION 17. IC 25-4-1-3 IS AMENDED TO READ AS
 3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The board shall
 4 organize by the election of a chairman and vice chairman, each of
 5 whom shall serve for a term of one (1) year. The first meeting of the
 6 board shall be held within thirty (30) days after the members thereof
 7 shall have been appointed, on call of the chairman of the board.
 8 Thereafter, the board shall hold at least two (2) regular meetings each
 9 year and may hold such special meetings, as the board in its discretion
 10 ~~may deem~~ **deems** necessary or advisable. The time for holding the
 11 regular meetings, the method of calling special meetings and the
 12 manner of giving notice of all meetings shall be prescribed in the
 13 bylaws of the board. Five (5) members of the board shall constitute a
 14 quorum for the transaction of any and all business which may come
 15 before the board. Approval by a majority of all members of the board
 16 shall be required for action to be taken. The board shall adopt official
 17 seals representing the different professions that shall be affixed to all
 18 certificates of registration granted and issued as provided in this
 19 chapter. Subject to the approval of the governor, the board is hereby
 20 authorized to make ~~such~~ bylaws and prescribe and promulgate ~~such~~
 21 rules as ~~may be~~ deemed necessary in the performance of its duty. The
 22 board shall adopt rules establishing standards for the competent practice
 23 of architecture and landscape architecture, **and for the administration**
 24 **of the registered architects and registered landscape architects**
 25 **investigative fund established by section 32 of this chapter.** Suitable
 26 office quarters shall be provided for the use of the board in the city of
 27 Indianapolis.

28 SECTION 18. IC 25-4-1-4 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The board shall be
 30 entitled to the services of the attorney general in connection with any
 31 of the business of the board. The board shall have the power to
 32 administer oaths and take testimony and proofs concerning any matter
 33 which may come within its jurisdiction. The attorney general, the
 34 prosecuting attorney of any county, the board, ~~of registration for~~
 35 ~~architects and landscape architects~~, or ~~any~~ a citizen of ~~any~~ a county
 36 wherein any person, not herein exempted, shall engage in the practice
 37 of architecture or landscape architecture, as herein defined, without first
 38 having obtained a certificate of registration, or without first having

renewed an expired certificate of registration, so to practice, may, in accordance with the provisions of the laws of this state governing injunctions, maintain an action, in the name of the state of Indiana, to enjoin such person from engaging in the practice of architecture or landscape architecture, as herein defined, until a certificate of registration is secured, or renewed, in accordance with the provisions of this chapter. Any person who has been so enjoined and who ~~shall violate~~ **such violates the** injunction shall be punished for contempt of court. ~~Such~~ **The** injunction shall not relieve such person so practicing architecture or landscape architecture without a certificate of registration, or without first having renewed an expired certificate of registration, from a criminal prosecution therefor, as is provided by this chapter, but such remedy by injunction shall be in addition to any remedy provided for herein for the criminal prosecution of such offender. In charging any person in a complaint for an injunction, or in an affidavit, information or indictment, with the violation of the provisions of this chapter, by practicing architecture or landscape architecture without a certificate of registration or without having renewed an expired certificate of registration, it shall be sufficient to charge that the person did upon a certain day and in a certain county engage in the practice of architecture or landscape architecture, without having a certificate of registration or without having renewed an expired certificate of registration, to so practice, without averring any further or more particular facts concerning the same. **The attorney general and the Indiana professional licensing agency may use the investigative fund to hire investigators and other employees to enforce the provisions of this article and to investigate and prosecute violations of this article."**

Page 10, between lines 8 and 9, begin a new paragraph and insert:

"(f) In addition to the registration fees established under this section, the board shall establish a fee of not more than twenty dollars (\$20) for registered architects or registered landscape architects to provide funds for the purpose of administering and enforcing the provisions of this article, including investigating and taking action against persons violating this article. All funds collected under this subsection shall be deposited into the registered architects and registered landscape architects investigative fund established by section 32 of this chapter.

1 SECTION 23. IC 25-4-1-32 IS ADDED TO THE INDIANA CODE
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2005]: **Sec. 32. (a) The registered architects and registered
 4 landscape architects investigative fund is established to provide
 5 funds for administering and enforcing the provisions of this article,
 6 including investigating and taking enforcement action against
 7 violators of this article. The fund shall be administered by the
 8 attorney general and the board.**

9 **(b) The expenses of administering the fund shall be paid from
 10 the money in the fund. The fund consists of money from a fee
 11 imposed upon registered architects and registered landscape
 12 architects under section 16(f) of this chapter.**

13 **(c) The treasurer of state shall invest the money in the fund not
 14 currently needed to meet the obligations of the fund in the same
 15 manner as other public money may be invested.**

16 **(d) Money in the fund at the end of a state fiscal year does not
 17 revert to the state general fund. If the total amount in the fund
 18 exceeds five hundred thousand dollars (\$500,000) at the end of a
 19 state fiscal year after payment of all claims and expenses, the
 20 amount that exceeds five hundred thousand dollars (\$500,000)
 21 reverts to the state general fund.**

22 **(e) Money in the fund is continually appropriated for use by the
 23 attorney general and the professional licensing agency to
 24 administer and enforce the provisions of this article and to conduct
 25 investigations and take enforcement action against persons
 26 violating the provision of this article."**

27 Page 10, between lines 37 and 38, begin a new paragraph and insert:

28 "SECTION 24. IC 25-4-2-8 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The board shall
 30 set the fees for issuance of a certificate of registration to a landscape
 31 architect and for the biennial renewal of registration. The fee for
 32 registration and for renewal of registration must be based upon the
 33 administrative costs of registering and regulating landscape architects.
 34 This fee must include the costs for:

- 35 (1) office facilities, supplies, and equipment; ~~and~~
- 36 (2) clerical assistance; ~~and~~
- 37 **(3) the fee for administering and enforcing the provisions of**
 38 **this article as set forth in IC 24-4-1-16(f).**

(b) **Except as provided in IC 25-4-1-32**, all fees collected under this chapter shall be paid by the Indiana professional licensing agency to the treasurer of state who shall deposit them in the general fund of the state."

Page 27, between lines 5 and 6, begin a new paragraph and insert:
 "SECTION 67. IC 25-20.7 IS ADDED TO THE INDIANA CODE AS A NEW **ARTICLE** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

ARTICLE 20.7. INTERIOR DESIGNERS

Chapter 1. Application

Sec. 1. This article applies to a person who practices interior design after December 31, 2005.

Sec. 2. This article does not apply to an owner or employee of a retail establishment who provides consultation regarding interior decoration or furnishing:

- (1) on the premises of the retail establishment; or**
- (2) for the purposes of an actual or prospective retail sale.**

Sec. 3. This article does not apply to a person who:

- (1) does not profess to be a registered interior designer; and**
- (2) is:**

- (A) an architect licensed under IC 25-4; or**
- (B) a professional engineer licensed under IC 25-31.**

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "ARE" refers to the Architectural Registration Exam.

Sec. 3. "Interior design" means client consultation and preparation and administration of design documents that include:

- (1) design studies;**
- (2) drawings;**
- (3) schedules;**
- (4) specifications; and**
- (5) contracts;**

relating to nonstructural and nonseismic interior elements of a building or structure. The term includes design documents for space plans, reflected ceiling plans, fire codes, permits, entrances, egress, ergonomics, and the design or specification of fixtures, furnishings, equipment, cabinetry, lighting, materials, finishes, and

interior construction that does not materially affect the building system. The term does not include the architectural and engineering design of interior construction.

Sec. 4. "Interior designer" means a person who practices interior design.

Sec. 5. "NCIDQ" refers to the National Council for Interior Design Qualification.

Sec. 6. "Nonstructural or nonseismic" means interior elements or components that:

- (1) are not load bearing or do not assist in the seismic design;
- (2) do not require design computations for the structure of a building; and
- (3) do not include the structural frame system supporting a building.

This term includes ceiling and partition systems that employ normal and typical bracing conventions and are not part of the structural integrity of the building.

Sec. 7. "Out-of-state applicant" means an individual who is:

- (1) an interior designer registered or licensed under the laws of another state, a foreign country, or a province in a foreign country; and
- (2) an applicant for a certificate of registration under this article.

Sec. 8. "Reflected ceiling plan" means a ceiling design that illustrates a ceiling as if the ceiling was projected downward and may include lighting elements.

Sec. 9. "Registered interior designer" means a person registered under this article.

Sec. 10. "Secretary of state" means the office of the secretary of state.

Sec. 11. "Space planning" means the analysis of design of spatial and occupancy requirements, including space layouts and final planning.

Chapter 3. Registration Requirements

Sec. 1. (a) The secretary of state shall maintain a registry of all interior designers who:

- (1) apply for and meet the registration requirements under this article; and

1 (2) pay the annual registration fee.

2 (b) The registry shall:

3 (1) be maintained in an electronic format; and

4 (2) include the:

5 (A) name of each registered interior designer; and

6 (B) date that the interior designer registered with the
7 secretary of state.

8 Sec. 2. The secretary of state shall issue a certificate of
9 registration to an interior designer who does the following:

10 (1) Applies for the registration on a form prescribed by the
11 secretary of state.

12 (2) Meets the requirements of this article.

13 (3) Pays the registration fee under section 5 of this chapter.

14 Sec. 3. The secretary of state shall issue a certificate of
15 registration to an applicant who satisfies section 2 of this chapter
16 and the following:

17 (1) Meets one (1) of the following requirements:

18 (A) Completes a degree in interior design or similar
19 discipline from an accredited college or university.

20 (B) Obtains:

21 (i) four (4) years of interior design higher education and
22 two (2) years of full-time work experience;

23 (ii) three (3) years of interior design higher education
24 and three (3) years of full-time work experience in
25 interior design; or

26 (iii) two (2) years of interior design education and four
27 (4) years of full-time work experience in interior design.

28 (2) Except as provided in section 4 of this chapter, an
29 applicant must pass the examination administered by the
30 NCIDQ or the ARE.

31 Sec. 4. The examination requirement under section 3(2) of this
32 chapter is waived if the applicant holds:

33 (1) a valid license or certificate in interior design from an
34 authority in another jurisdiction that has standards
35 substantially equivalent to this article; and

36 (2) a current certificate issued by the NCIDQ or
37 documentation of the successful completion of the ARE.

38 Sec. 5. (a) The secretary of state shall collect the following fees

1 under this article:

2 (1) An initial registration fee of one hundred dollars (\$100).

3 (2) A biennial renewal fee of one hundred dollars (\$100).

4 (3) A restoration fee of three hundred dollars (\$300).

5 (b) The fees collected by the secretary of state under this article
6 shall be deposited into the electronic and enhanced access fund
7 established by IC 4-5-10-5.

8 Sec. 6. To qualify for registration under this article, the
9 applicant must not have a conviction for:

10 (1) an act that would constitute a ground for disciplinary
11 sanction under IC 25-1-11; or

12 (2) a felony that has a direct bearing on the applicant's ability
13 to practice competently.

14 Sec. 7. (a) This section applies only to an out-of-state applicant.

15 (b) The secretary of state shall grant a certificate of registration
16 to an out-of-state applicant upon the following conditions:

17 (1) The applicant must be at least eighteen (18) years of age
18 and must not have been convicted of:

19 (A) an act that would constitute a ground for disciplinary
20 sanction under IC 25-1-11; or

21 (B) a felony that has a direct bearing on the applicant's
22 ability to practice competently.

23 (2) The applicant must:

24 (A) pass the examination administered by the NCIDQ or
25 the ARE; or

26 (B) hold a current valid license or certificate of registration
27 in interior design from an authority in another jurisdiction
28 that has standards substantially equivalent to this article.

29 (3) The applicant must pay fees established by the board.

30 Sec. 8. A registered interior designer shall display the certificate
31 of registration in a conspicuous place:

32 (1) in the principal office;

33 (2) of business; or

34 (3) of employment;

35 of the registered interior designer.

36 Sec. 9. (a) A registered interior designer shall have a seal or
37 design authorized by the secretary of state, the impression of which
38 must contain:

- (1) the name of the interior designer;
- (2) the words, "registered interior designer" and "state of Indiana"; and
- (3) the expiration date of the certification.

(b) A registered interior designer must place the seal described in subsection (a) and signature of the registered interior designer on any interior design construction documents issued by the registered interior designer and filed for public record for purposes of obtaining a building permit, including:

- (1) drawings;
- (2) plans;
- (3) specifications; and
- (4) reports.

(c) If a certificate of registration is suspended or revoked, the interior designer shall return the seal to the secretary of state not later than thirty (30) days after the date the certificate was revoked or suspended. The secretary of state shall return the seal to the interior designer if the suspension is removed.

Sec. 10. Notwithstanding section 3 of this chapter, a person may be registered with the secretary of state and issued a certificate of registration after completion of the requirements of section 2 of this chapter if the person provides proof to the secretary of state that:

- (1) the person has:
 - (A) received two (2) to four (4) years of education in interior design; and
 - (B) practiced in the field of interior design for at least ten (10) years; or
- (2) the person has practiced interior design for at least fifteen (15) years.

However, a person registered under this section may not place a seal and signature on interior design construction documents as set forth in section 9(b) of this chapter for the purpose of obtaining a building permit unless the person has passed the examination administered by the NCIDQ or the ARE.

Chapter 4. Renewal of Certification

Sec. 1. An individual who applies to renew a certificate of registration as an interior designer must:

- (1) furnish evidence showing successful completion of the

1 continuing education requirements under section 3 of this
2 chapter; and

3 (2) pay the renewal fee established under IC 25-20.7-3-5.

4 Sec. 2. (a) Renewal notices must be sent in accordance with
5 IC 25-1-2-6(c).

6 (b) The renewal fee must be paid in accordance with
7 IC 25-1-8-2(d).

8 Sec. 3. Each registered interior designer must complete at least
9 twelve (12) hours of continuing education in interior design or a
10 discipline related to the practice of interior design for the renewal
11 of a certificate under this chapter.

12 Sec. 4. (a) A registered interior designer who continues to
13 actively practice interior design shall:

14 (1) renew the certification within ninety (90) days before the
15 expiration of the certificate; and

16 (2) pay the renewal fee under IC 25-20.7-3-5.

17 (b) A registered interior designer whose certificate has expired
18 may have the certificate restored only upon payment of the
19 restoration fee under IC 25-20.7-3-5.

20 (c) Subject to subsection (d), an interior designer registered
21 under this article who has failed to renew the interior designer's
22 certificate for a period of not more than five (5) years from the date
23 the certificate expired may have the certificate renewed at any time
24 within the five (5) year period after the certification expired upon:

25 (1) making application to the board for renewal of the
26 certification; and

27 (2) paying a renewal fee equal to the sum of the renewal fees
28 that the applicant would have paid if the applicant had
29 regularly renewed the certification during the period that the
30 certification lapsed.

31 (d) If a registered interior designer desires to retire from the
32 practice of interior design in Indiana, the interior designer may
33 submit to the secretary of state a verified statement of intention to
34 withdraw from practice. The statement shall be entered in the
35 records of the secretary of state. During the period of the interior
36 designer's retirement, the interior designer is not liable for any
37 renewal or restoration fees. If a retired interior designer desires to
38 return to the practice of interior design in Indiana not later than a

1 period of five (5) years after the date that the interior designer files
 2 a statement under this subsection, the retired interior designer
 3 must:

4 (1) file with the secretary of state a verified statement
 5 indicating the interior designer's desire to return to the
 6 practice of interior design; and

7 (2) pay:

8 (A) the renewal fee under IC 25-20.7-3-5 to renew an
 9 unexpired certification under this chapter, if the retired
 10 interior designer's certification is renewed for one (1) year
 11 or more in a biennial renewal cycle; or

12 (B) a renewal fee equal to one-half (1/2) the fee under
 13 IC 25-20.7-3-5 to renew an unexpired certification under
 14 this chapter, if the retired interior designer's certification
 15 is renewed for less than one (1) year in a biennial renewal
 16 cycle.

17 Sec. 5. The secretary of state shall keep a register of all
 18 applicants for certification showing for each applicant:

- 19 (1) the dates of application;
- 20 (2) the name, age, and other qualifications;
- 21 (3) the place of business;
- 22 (4) the place of residence;
- 23 (5) whether the applicant was denied or granted a certificate
- 24 of registration under this article; and
- 25 (6) the date the applicant was denied or granted a certificate
- 26 of registration.

27 Sec. 6. (a) A person may not use the title "registered interior
 28 designer" in Indiana or any title designation sign, card, or device
 29 indicating that the person is a registered interior designer unless
 30 the person has registered with the secretary of state under this
 31 article.

32 (b) A person may not:

- 33 (1) present as the person's own the certificate of registration
- 34 or the seal of another;
- 35 (2) give any false or forged evidence of any kind to the
- 36 secretary of state or in obtaining a certificate of registration;
- 37 (3) impersonate any other registrant;
- 38 (4) use an expired, suspended, or revoked certificate of

1 registration.

2 (c) A violation of this section is a Class B misdemeanor.

3 Sec. 7. The secretary of state may suspend or revoke a certificate
4 of registration for a violation under section 6(b) of this chapter.

5 Sec. 8. This article does not prevent an interior designer from
6 practicing interior design if the person does not use the designation
7 under section 6 of this chapter.

8 Sec. 9. (a) If an interior designer has a civil judgment entered
9 against the interior designer by a court of competent jurisdiction
10 in a civil judicial proceeding for negligence, recklessness, willful
11 misconduct, or other breach of standard of care in the practice of
12 interior design, the secretary of state shall immediately withdraw
13 the interior designer's certificate of registration under this article.

14 (b) An interior designer who has a civil judgment described in
15 subsection (a) entered against the interior designer is ineligible to
16 be registered under this article.

17 SECTION 68. IC 25-21.5-2-14 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) The board shall
19 enforce and administer this article.

20 (b) The board shall adopt rules under IC 4-22-2 that are reasonably
21 necessary to implement this article, **including for the administration**
22 **of the registered land surveyor and registered land surveyor in**
23 **training investigative fund established under IC 25-21.5-11-4**, and
24 establish standards for the competent practice of land surveying.

25 SECTION 69. IC 25-21.5-3-4 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) **Except as**
27 **provided in subsection (b)**, the secretary shall receive and account for
28 all money collected under this article and deposit the money in the state
29 general fund with the treasurer of state. All expenses incurred in the
30 administration of this article shall be paid from the state general fund.

31 (b) **In addition to a registration fee determined under**
32 **IC 25-21.5-7-5**, the board shall establish a fee of not more than
33 **twenty dollars (\$20) for a registered land surveyor or a registered**
34 **land surveyor in training to provide funds for the purpose of**
35 **administering and enforcing the provision of this article, including**
36 **investigating and taking action against persons violating this**
37 **article. All funds collected under this subsection shall be deposited**
38 **in the registered land surveyor and registered land surveyor in**

1 **training investigative fund established by IC 25-21.5-11-4."**

2 Page 27, line 13, delete "The" and insert **"Except as provided in**
 3 **IC 25-21.5-3-4(b), the"**.

4 Page 28, between lines 10 and 11, begin a new paragraph and insert:

5 "SECTION 73. IC 25-21.5-11-4 IS ADDED TO THE INDIANA
 6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2005]: **Sec. 4. (a) The registered land**
 8 **surveyor and registered land surveyor in training investigative**
 9 **fund is established to provide funds for administering and**
 10 **enforcing the provisions of this article, including investigating and**
 11 **taking enforcement action against violators of this article. The fund**
 12 **shall be administered by the attorney general and the licensing**
 13 **agency.**

14 **(b) The expenses of administering the fund shall be paid from**
 15 **the money in the fund. The fund consists of money from a fee**
 16 **imposed upon registered land surveyors and registered land**
 17 **surveyors in training under IC 25-21.5-3-4(b).**

18 **(c) The treasurer of state shall invest the money in the fund not**
 19 **currently needed to meet the obligations of the fund in the same**
 20 **manner as other public money may be invested.**

21 **(d) Money in the fund at the end of a state fiscal year does not**
 22 **revert to the state general fund. If the total amount in the fund**
 23 **exceeds five hundred thousand dollars (\$500,000) at the end of a**
 24 **state fiscal year after payment of all claims and expenses, the**
 25 **amount that exceeds five hundred thousand dollars (\$500,000)**
 26 **reverts to the state general fund.**

27 **(e) Money in the fund is continually appropriated for use by the**
 28 **attorney general and the Indiana professional licensing agency to**
 29 **administer and enforce the provisions of this article and to conduct**
 30 **investigations and take enforcement action against persons**
 31 **violating the provision of this article.**

32 SECTION 74. IC 25-21.5-13-3 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3. (a) The attorney**
 34 **general shall act as the legal advisor for the board and provide any legal**
 35 **assistance necessary to carry out this article.**

36 **(b) The attorney general and the licensing agency may use the**
 37 **registered land surveyor and registered land surveyor in training**
 38 **investigative fund established under IC 25-21.5-11-4 to hire**

1 **investigators and other employees to enforce the provisions of this**
 2 **article and to investigate and prosecute violations of this article.**

3 **SECTION 75. IC 25-21.8 IS ADDED TO THE INDIANA CODE**
 4 **AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE**
 5 **JULY 1, 2005]:**

6 **ARTICLE 21.8. MESSAGE THERAPISTS**

7 **Chapter 1. Application of Article**

8 **Sec. 1. (a) This article applies to an individual who practices or**
 9 **offers to practice massage therapy.**

10 **(b) This article does not apply to the following:**

11 **(1) An individual who:**

12 **(A) does not profess to be a massage therapist or use a title,**
 13 **an abbreviation, or another designation set forth in**
 14 **IC 25-21.8-5-4(3); and**

15 **(B) engages in the practice for which the person holds a**
 16 **license, certification, or registration under Indiana law,**
 17 **including a physician, a chiropractor, a podiatrist, or a**
 18 **physical therapist.**

19 **(2) An individual who:**

20 **(A) does not profess to be a massage therapist or use a title,**
 21 **an abbreviation, or another designation set forth in**
 22 **IC 25-21.8-5-4(3); and**

23 **(B) is a qualified member of a professional group and**
 24 **performs massage in a manner consistent with the**
 25 **individual's training and code of ethics of the profession,**
 26 **including a chiropractor, an occupational therapist, a**
 27 **cosmetologist, or a nurse.**

28 **(3) A massage therapy student who performs massage or**
 29 **massage therapy in the course of the student's studies and**
 30 **who:**

31 **(A) does not profess to be a massage therapist or use a title,**
 32 **an abbreviation, or another designation set forth in**
 33 **IC 25-21.8-5-4(3); and**

34 **(B) does not receive or request compensation for the**
 35 **massage or massage therapy.**

36 **(4) An individual who:**

37 **(A) does not profess to be a massage therapist or use a title,**
 38 **an abbreviation, or another designation set forth in**

- 1 **IC 25-21.8-5-4(3) and whose services are not designated or**
 2 **implied to be massage or massage therapy;**
 3 **(B) is engaged within the scope of practice of a profession**
 4 **with established standards and ethics; and**
 5 **(C) uses:**
 6 **(i) touch, words, and direct movements to deepen**
 7 **awareness of existing patterns of movement in the body**
 8 **and to suggest new possibilities of movement; or**
 9 **(ii) touch that is essential for effectual palpation of the**
 10 **human energy system.**

- 11 **(5) An individual who:**
 12 **(A) does not profess to be a massage therapist or use a title,**
 13 **an abbreviation, or another designation set forth in**
 14 **IC 25-21.8-5-4(3); and**
 15 **(B) treats soft tissue above the neck, below the elbow, or**
 16 **below the knee on a client who is not disrobed.**

17 **Chapter 2. Definitions**

18 **Sec. 1. Definitions in this chapter apply throughout this article.**

19 **Sec. 2. "Board" means the state board of massage therapy**
 20 **established by IC 25-21.8-3-1.**

21 **Sec. 3. "Licensing agency" means the Indiana professional**
 22 **licensing agency established under IC 25-1-6.**

- 23 **Sec. 4. "Massage", "massage therapy", or "bodywork":**
 24 **(1) means the therapeutic application of massage techniques**
 25 **on the human body;**
 26 **(2) includes:**
 27 **(A) the use of touch, pressure, percussion, kneading,**
 28 **movement, positioning, nonspecific stretching, stretching**
 29 **within the normal anatomical range of movement, and**
 30 **holding, with or without the use of massage devices that**
 31 **mimic or enhance manual measures; and**
 32 **(B) the external application of heat, cold, water, ice, stones,**
 33 **thermal therapy, lubricants, abrasives, and topical**
 34 **preparations that are not classified as prescription drugs;**
 35 **and**
 36 **(3) does not include:**
 37 **(A) joint manipulation or spinal adjustment; and**
 38 **(B) diagnosis or prescribing drugs for which a license is**

1 required.

2 Sec. 5. "Massage therapist" means an individual who practices
3 massage or massage therapy.

4 Sec. 6. "NCCA" refers to the National Commission for
5 Certifying Agencies.

6 Sec. 7. "Practice of massage", "practice of massage therapy", or
7 "practice of bodywork" means:

- 8 (1) the performance of massage or massage therapy;
- 9 (2) professing to be a massage therapist; or
- 10 (3) implying in any manner to the public that an individual
11 performs massage or massage therapy.

12 Sec. 8. "Professional massage and bodywork therapy
13 association" means a state or nationally chartered organization
14 that is devoted to the massage specialty and therapeutic approach
15 and that meets the following requirements:

- 16 (1) The organization requires that its members meet minimum
17 educational requirements. The educational requirements must
18 include anatomy, physiology, hygiene, sanitation, ethics,
19 technical theory, and application of techniques.
- 20 (2) The organization has an established code of ethics and has
21 procedures for the suspension and revocation of membership
22 of persons violating the code of ethics.

23 Chapter 3. State Board of Massage Therapy

24 Sec. 1. The state board of massage therapy is established.

25 Sec. 2. The board consists of five (5) members appointed by the
26 governor as follows:

- 27 (1) Three (3) massage therapists, each of whom:
 - 28 (A) is licensed under this article; and
 - 29 (B) has been actively practicing massage therapy for at
30 least three (3) of the five (5) years immediately preceding
31 the individual's appointment.

32 The board members appointed under this subdivision may
33 continue to practice massage or massage therapy while
34 serving on the board.

- 35 (2) Two (2) members of the general public. A board member
36 appointed under this subdivision must not:

- 37 (A) be licensed under this article;
- 38 (B) be the spouse of an individual who is licensed or intends

1 to be licensed under this article; or
 2 (C) have a direct or an indirect financial interest in the
 3 profession regulated under this article.

4 Only one (1) of the two (2) members appointed under this
 5 subdivision may hold a license in another health care
 6 profession under this title.

7 Sec. 3. Each member of the board shall serve a term of three (3)
 8 years and until the member's successor is appointed and qualified.

9 Sec. 4. (a) A vacancy in the membership of the board shall be
 10 filled by an individual appointed by the governor for the unexpired
 11 term.

12 (b) A member may not serve more than two (2) consecutive
 13 terms in addition to any unexpired term to which the individual
 14 was appointed.

15 (c) A member of the board may be removed for cause by the
 16 governor.

17 Sec. 5. (a) Each year the board shall elect from its members the
 18 following officers:

19 (1) A chairperson.

20 (2) A vice chairperson.

21 (3) A secretary.

22 (b) A member serving as chairperson, vice chairperson, or
 23 secretary shall serve until the member's successor as chairperson,
 24 vice chairperson, or secretary is elected.

25 Sec. 6. The board shall meet at least two (2) times each calendar
 26 year upon the call of the chairperson or the written request of a
 27 majority of the members of the board.

28 Sec. 7. (a) Three (3) members of the board constitute a quorum.

29 (b) An affirmative vote of three (3) members of the board is
 30 necessary for the board to take official action.

31 Sec. 8. A member of the board is not entitled to a per diem
 32 allowance or any other compensation for the performance of the
 33 member's duties.

34 Chapter 4. Powers and Duties of the Board

35 Sec. 1. (a) The board shall do the following:

36 (1) Administer, coordinate, and enforce this article.

37 (2) Adopt rules under IC 4-22-2 for the administration and
 38 enforcement of this article.

- 1 **(3) Judge the qualifications of applicants for licensing under**
- 2 **this article.**
- 3 **(4) Issue, deny, renew, suspend, or revoke licenses under this**
- 4 **article.**
- 5 **(5) Discipline licensees for violations of this article.**
- 6 **(6) Establish reasonable fees for examination, license**
- 7 **applications, renewal of licenses, and other services.**
- 8 **(7) Maintain a record of all proceedings.**
- 9 **(8) Establish a system for grievances to be addressed and**
- 10 **resolved.**
- 11 **(9) Maintain a list of licensed massage therapists.**
- 12 **(b) The board is authorized to do the following:**
- 13 **(1) Rescind or modify a disciplinary action taken under**
- 14 **IC 25-21.8-8.**
- 15 **(2) Conduct investigations to determine whether violations of**
- 16 **this article exist and constitute grounds for disciplinary action**
- 17 **against licensees under this article.**
- 18 **(3) Conduct administrative hearings.**
- 19 **Sec. 2. The licensing agency shall do the following:**
- 20 **(1) Carry out the administrative functions of the board.**
- 21 **(2) Provide necessary personnel to carry out the duties of this**
- 22 **article.**
- 23 **(3) Receive and account for all fees required under this article.**
- 24 **(4) Deposit fees collected with the treasurer of state for deposit**
- 25 **in the state general fund.**
- 26 **Sec. 3. Expenses incurred in the administration of this article**
- 27 **must be paid from the state general fund.**
- 28 **Chapter 5. Issuance of License**
- 29 **Sec. 1. An individual may not practice or offer to practice**
- 30 **massage therapy without a license issued by the board.**
- 31 **Sec. 2. An application for a massage therapist license must be:**
- 32 **(1) made to the board on forms provided by the board; and**
- 33 **(2) accompanied by an application fee in the amount set by the**
- 34 **board.**
- 35 **Sec. 3. An individual who applies for a license as a massage**
- 36 **therapist must do the following:**
- 37 **(1) Furnish evidence satisfactory to the board showing that**
- 38 **the individual:**

- 1 (A) is at least eighteen (18) years of age;
- 2 (B) has a high school diploma or the equivalent of a high
- 3 school diploma;
- 4 (C) has successfully completed a massage school or
- 5 program that:
 - 6 (i) requires at least five hundred (500) hours of
 - 7 supervised classroom instruction on massage therapy;
 - 8 (ii) is in good standing with any state, regional, or
 - 9 national agency of government charged with regulating
 - 10 massage therapy schools or programs; and
 - 11 (iii) is accredited by the Indiana commission on
 - 12 proprietary education established by IC 20-1-19-2 or
 - 13 accredited by another state where the standards for
 - 14 massage therapy education are substantially the same as
 - 15 the standards in Indiana, or is a program at an
 - 16 institution of higher learning that is approved by the
 - 17 board; and
- 18 (D) has taken and passed one (1) of the following:
 - 19 (i) The National Certification Examination for
 - 20 Therapeutic Massage and Bodywork (NCETMB), if the
 - 21 exam is recognized or accredited by the NCCA.
 - 22 (ii) An examination created or approved by the board.
 - 23 (iii) An equivalent massage examination accredited by
 - 24 the NCCA.
- 25 (2) Provide a history of any criminal convictions the individual
- 26 has, including any convictions related to the practice of the
- 27 profession. A criminal conviction may not operate as a
- 28 complete bar to a license, unless:
 - 29 (A) the conviction is for:
 - 30 (i) prostitution;
 - 31 (ii) rape; or
 - 32 (iii) sexual misconduct; or
 - 33 (B) the applicant is a registered sex offender.
- 34 (3) Verify the information submitted on the application form.
- 35 (4) Pay fees established by the board.
- 36 **Sec. 4. An individual who is not licensed under this article may**
- 37 **not:**
 - 38 (1) profess to be a massage therapist;

1 (2) practice massage or massage therapy; or

2 (3) use:

3 (A) the title "Licensed Massage Therapist", "Massage
4 Therapist", "Licensed Massage Practitioner", "Massage
5 Practitioner", "Masseur", "Masseuse", "Myotherapist",
6 or "Body Worker";

7 (B) the abbreviation "LMT", "MT", "LMP", or "MP"; or

8 (C) other words, initials, letters, abbreviations, or insignia
9 indicating or implying that the individual is a massage
10 therapist licensed under this article.

11 Chapter 6. Licensure by Endorsement

12 Sec. 1. (a) Subject to section 2 of this chapter, the board may
13 grant a license by endorsement to an individual who:

14 (1) is licensed, certified, or registered in another state or
15 country having credentialing standards that are at least as
16 strict as the credentialing standards specified under this
17 article;

18 (2) is in good standing with the standards of the other state or
19 country;

20 (3) pays an application fee established by the board; and

21 (4) provides a history of the individual's criminal convictions,
22 if any, including any criminal convictions relating to the
23 practice of the profession. A criminal conviction may not
24 operate as a complete bar to a license, unless:

25 (A) the conviction is for:

26 (i) prostitution;

27 (ii) rape; or

28 (iii) sexual misconduct; or

29 (B) the applicant is a registered sex offender.

30 (b) Upon receipt of an application for a license by endorsement
31 under this chapter, the board shall contact each jurisdiction that
32 previously credentialed the applicant to determine the applicant's
33 current status in each jurisdiction.

34 Sec. 2. The board shall issue a license to an applicant if:

35 (1) the applicant has been credentialed by another state within
36 the five (5) years immediately preceding the submission of the
37 application to the board under this chapter and the state has
38 credentialing standards for massage therapists that are

substantially equivalent to the credentialing standards that must be met under this article; or

(2) the applicant:

(A) holds a current certification from the National Certification Board for Therapeutic Massage and Bodywork (NCETMB) or another agency that meets standards set by the NCCA; and

(B) is a current member of a professional massage and bodywork therapy association;

and the applicant meets other requirements established by the board.

Chapter 7. License Renewal

Sec. 1. A license issued by the board is valid for four (4) years.

Sec. 2. (a) An individual who applies to renew a license as a massage therapist must:

(1) file a renewal application with the board;

(2) pay a renewal fee established by the board; and

(3) provide a history of any of the individual's criminal convictions, including any criminal convictions relating to the practice of the profession. A criminal conviction may not operate as a complete bar to the renewal of a license, unless:

(A) the conviction is for:

(i) prostitution;

(ii) rape; or

(iii) sexual misconduct; or

(B) the applicant is a registered sex offender.

(b) An application for license renewal must include proof of current membership in a professional massage and bodywork therapy association.

Sec. 3. (a) A renewal application must be submitted to the board at least fifteen (15) days before expiration of the license.

(b) If a renewal application is not submitted within the time set forth in subsection (a), the board may charge the applicant a delinquent fee in an amount established by the board.

Chapter 8. Discipline and Violations

Sec. 1. (a) This section does not apply to the violation of a rule adopted by the board.

(b) A person who knowingly or intentionally violates

1 **IC 25-21.8-5-1 or IC 25-21.8-5-4(3) commits a Class C**
 2 **misdemeanor.**

3 **Sec. 2. (a) The board shall follow the disciplinary procedures**
 4 **established under IC 25-1-7, IC 25-1-9-4, and IC 25-1-9-9.**

5 **(b) The board shall adopt rules under IC 4-22-2 regarding the**
 6 **discipline of a licensee for a violation of this article.**

7 **Sec. 3. (a) A person who practices, offers to practice, or attempts**
 8 **to practice massage therapy, or who holds himself or herself out to**
 9 **the public as a person able to practice massage therapy or as a**
 10 **massage therapist without being licensed under this article, in**
 11 **addition to any other penalty provided by law, shall pay a civil**
 12 **penalty to the board in an amount that does not exceed five**
 13 **thousand dollars (\$5,000) for each violation as determined by the**
 14 **board.**

15 **(b) A civil penalty imposed under this section shall be paid not**
 16 **later than sixty (60) days after the effective date of the order**
 17 **imposing the civil penalty. The order:**

18 **(1) constitutes a judgment; and**

19 **(2) may be filed and executed in the same manner as any**
 20 **judgment from any court of record.**

21 **Sec. 4. A person who knowingly:**

22 **(1) aids and abets another person in using a title, an**
 23 **abbreviation, or another designation set forth in**
 24 **IC 25-21.8-5-4(3) when the other person is not authorized**
 25 **under this article to use the title, abbreviation, or other**
 26 **designation; or**

27 **(2) employs another person who uses but is not authorized to**
 28 **use the regulated professional title under this article in the**
 29 **course of the other person's employment;**

30 **shall pay a civil penalty to the board in an amount that does not**
 31 **exceed five thousand dollars (\$5,000) for each violation as**
 32 **determined by the board.**

33 **Chapter 9. Preemption of Local Ordinances, Resolutions, Rules,**
 34 **and Policies**

35 **Sec. 1. Except as provided in section 2 of this chapter, this article**
 36 **supersedes any ordinances, resolutions, rules, and policies relating**
 37 **to the licensing, certification, or registration of massage therapists**
 38 **that are adopted by a municipality or county and that otherwise**

1 **have the force and effect of law.**

2 **Sec. 2. This article does not affect local ordinances, resolutions,**
 3 **rules, and policies adopted by a municipality or county that have**
 4 **the force and effect of law and that relate to:**

5 **(1) zoning requirements; or**

6 **(2) occupational license fees."**

7 Page 28, between lines 22 and 23, begin a new paragraph and insert:

8 "SECTION 77. IC 25-28.5-1-12 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) Except as
 10 otherwise provided in this chapter, ~~any~~ **a** natural person over the age of
 11 eighteen (18) years who resides in Indiana and any corporation which
 12 satisfies the further requirements of this chapter may be licensed by the
 13 commission as a plumbing contractor. Except as otherwise provided by
 14 this chapter, ~~any~~ **a** natural person over the age of eighteen (18) years
 15 may be licensed by the commission as journeyman plumber.

16 (b) ~~Any~~ **A** person who desires to be licensed as a plumbing
 17 contractor or journeyman plumber is eligible for such a license upon the
 18 successful taking of the examination provided in section 15 of this
 19 chapter.

20 (c) To qualify for a journeyman plumber examination under
 21 subsection (b), an applicant who is an Indiana resident must provide
 22 evidence that the applicant has completed at least four (4) years in an
 23 apprenticeship program approved by the commission or present to the
 24 commission a notarized statement providing evidence that the applicant
 25 has at least four (4) years of experience in the plumbing trade **in**
 26 **employment as set forth in IC 25-28.5-1-32(2), IC 25-28.5-1-32(6),**
 27 **or IC 25-28.5-1-32(7).** To qualify for a plumbing contractor license
 28 examination under subsection (b), an applicant who is an Indiana
 29 resident must provide evidence that the applicant has completed at least
 30 four (4) years in an apprenticeship program approved by the
 31 commission or present to the commission a notarized statement
 32 providing evidence that the applicant has at least four (4) years of
 33 experience in the plumbing trade **in employment as set forth in**
 34 **IC 25-28.5-1-32(2), IC 25-28.5-1-32(6), or IC 25-28.5-1-32(7),** or has
 35 worked in a plumbing business under the direction of a licensed
 36 plumbing contractor for at least four (4) years.

37 (d) An applicant who is not an Indiana resident may qualify to take
 38 an examination under subsection (b) in the following manner:

(1) If the applicant holds a license in a state that does not have a reciprocity agreement with Indiana, the applicant must present the license to the commission to be eligible to take the examination.

(2) If the applicant resides in a state that does not have licensing requirements, the applicant before taking the examination must meet the appropriate requirements of subsection (b).

(e) If the applicant holds a license in a state that has a reciprocity agreement with Indiana, the appropriate license shall be issued automatically."

Page 30, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 85. IC 25-31-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The board shall enforce and administer the provisions of this chapter, and adopt rules, not inconsistent with the Constitution and laws of this state, as may be reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it. The board shall adopt rules establishing standards for the competent practice of engineering **and for the administration of the registered professional engineers and registered engineering interns investigative fund established by section 35 of this chapter.** Any rulemaking by the board shall be in accordance with IC 4-22-2.

(b) The board shall adopt and have an official seal.

SECTION 86. IC 25-31-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. **(a) Except as provided in subsection (b),** the licensing agency shall receive and account for all money collected under the provisions of this chapter and shall deposit the money with the treasurer of state to be deposited by the treasurer of state in the general fund of the state.

(b) In addition to the registration fee established under section 13(c) of this chapter, the board shall establish a fee of not more than twenty dollars (\$20) for registered professional engineers or registered engineering interns to provide funds for the purpose of administering and enforcing the provisions of this article, including investigating and taking action against persons violating this article. All funds collected under this subsection shall be deposited into the registered professional engineers and registered engineering interns investigative fund established by section 35 of this chapter."

1 Page 34, between lines 14 and 15, begin a new paragraph and insert:

2 "SECTION 91. IC 25-31-1-28 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. (a) It is the duty of
4 all law enforcement officers of this state, or any political subdivision,
5 to enforce the provisions of this chapter and to apprehend and prosecute
6 any person who violates any of the provisions of this chapter.

7 (b) The attorney general shall act as the legal advisor of the board
8 and render any legal assistance as may be necessary in carrying out the
9 provisions of this chapter.

10 (c) **The attorney general and the licensing agency may use the**
11 **registered professional engineers and registered engineering**
12 **interns investigative fund established by section 35 of this chapter**
13 **to hire investigators and other employees to enforce the provision**
14 **of this article and to investigate and prosecute violations of this**
15 **article.**

16 SECTION 92. IC 25-31-1-35 IS ADDED TO THE INDIANA
17 CODE AS A NEW SECTION TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 2005]: Sec. 35. (a) **The registered**
19 **professional engineers and registered engineering interns**
20 **investigative fund is established to provide funds for administering**
21 **and enforcing the provisions of this article, including investigating**
22 **and taking enforcement action against violators of this article. The**
23 **fund shall be administered by the attorney general and the**
24 **licensing agency.**

25 (b) **The expenses of administering the fund shall be paid from**
26 **the money in the fund. The fund consists of money from a fee**
27 **imposed upon registered professional engineers and registered**
28 **engineering interns under section 9(b) of this chapter.**

29 (c) **The treasurer of state shall invest the money in the fund not**
30 **currently needed to meet the obligations of the fund in the same**
31 **manner as other public money may be invested.**

32 (d) **Money in the fund at the end of a state fiscal year does not**
33 **revert to the state general fund. If the total amount in the fund**
34 **exceeds five hundred thousand dollars (\$500,000) at the end of a**
35 **state fiscal year after payment of all claims and expenses, the**
36 **amount that exceeds five hundred thousand dollars (\$500,000)**
37 **reverts to the state general fund.**

38 (e) **Money in the fund is continually appropriated for use by the**

1 attorney general and the professional licensing agency to
 2 administer and enforce the provisions of this article and to conduct
 3 investigations and take enforcement action against persons
 4 violating the provisions of this article."

5 Page 34, line 25, after "public" delete "." and insert ";".

6 Page 37, line 6, after "public" delete "." and insert ";".

7 Page 40, between lines 9 and 10, begin a new paragraph and insert:
 8 "SECTION 95. IC 27-16 IS ADDED TO THE INDIANA CODE
 9 AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2005]:

11 **ARTICLE 16. PROFESSIONAL EMPLOYER**
 12 **ORGANIZATIONS**

13 **Chapter 1. Applicability**

14 **Sec. 1. This article applies after December 31, 2005.**

15 **Chapter 2. Definitions**

16 **Sec. 1. The definitions in this chapter apply throughout this**
 17 **article.**

18 **Sec. 2. (a) "Administrative fee" means the fee charged to a client**
 19 **by a professional employer organization for professional employer**
 20 **services.**

21 **(b) The term does not include any amount charged to a client by**
 22 **a professional employer organization for wages and salaries,**
 23 **benefits, worker's compensation, payroll taxes, withholding, or**
 24 **other assessments paid by a professional employer organization to**
 25 **or on behalf of a covered employee.**

26 **Sec. 3. "Client" means a person that enters into a professional**
 27 **employer agreement with a professional employer organization.**

28 **Sec. 4. "Co-employed" means that an individual is**
 29 **contemporaneously employed by both a client and a professional**
 30 **employer organization.**

31 **Sec. 5. "Co-employer" refers to a client or a professional**
 32 **employer organization that has entered into a professional**
 33 **employer agreement and has a relationship with a co-employed**
 34 **individual.**

35 **Sec. 6. "Co-employment relationship" means a relationship:**

36 **(1) between a:**

37 **(A) client and a professional employer organization; or**

38 **(B) co-employer and a covered employee; and**

1 (2) that results from the client and the professional employer
2 organization entering into a professional employer agreement.

3 Sec. 7. "Commissioner" refers to the insurance commissioner
4 appointed under IC 27-1-1-2.

5 Sec. 8. (a) "Covered employee" means an individual who is
6 co-employed.

7 (b) The term includes an individual who is an officer, a director,
8 a shareholder, a partner, or a manager of a client to the extent the
9 professional employer organization and the client expressly agree
10 that the individual:

11 (1) is described in subsection (a); and

12 (2) acts as an operational manager or performs day to day
13 operational services for the client;

14 as reflected in the professional employer agreement.

15 Sec. 9. "Department" refers to the department of insurance
16 created by IC 27-1-1-1.

17 Sec. 10. "PEO group" means two (2) or more professional
18 employer organizations that are majority owned or commonly
19 controlled by the same entity, parent, or controlling person.

20 Sec. 11. "Person" means an individual, a partnership, a
21 corporation, a limited liability company, an association, or another
22 legally recognized entity.

23 Sec. 12. "Professional employer agreement" means a written
24 contract between a person and a professional employer
25 organization:

26 (1) under which all or a majority of the person's employees
27 become covered employees;

28 (2) that provides for the allocation of employer rights and
29 obligations between the person and the professional employer
30 organization with respect to the covered employees; and

31 (3) that specifies the professional employer services that will
32 be provided.

33 Sec. 13. (a) "Professional employer organization" or "PEO"
34 means a person engaged in the business of providing professional
35 employer services.

36 (b) The term does not include the following:

37 (1) An arrangement through which a person:

38 (A) whose principal business activity is an activity other

1 than entering into professional employer agreements; and
 2 **(B) that does not hold the person out as a professional**
 3 **employer organization;**

4 **shares employees with a commonly owned company within the**
 5 **meaning of Section 414(b) and 414(c) of the Internal Revenue**
 6 **Code of 1986, as amended.**

7 **(2) An independent contractor arrangement through which a**
 8 **person:**

9 **(A) assumes responsibility for a product produced or a**
 10 **service performed by the person or the person's agent; and**

11 **(B) retains and exercises primary direction and control**
 12 **over the work performed by an individual whose services**
 13 **are supplied under the independent contractor**
 14 **arrangement.**

15 **(3) The provision of temporary help services.**

16 **Sec. 14. "Professional employer services" means the services**
 17 **that are provided to a client by a professional employer**
 18 **organization under a professional employer agreement.**

19 **Sec. 15. "Temporary help service" means a service consisting of**
 20 **a person that:**

21 **(1) recruits and hires the person's own employees, not**
 22 **including an officer, a manager, or a controlling person of a**
 23 **client to which the person's own employee is assigned by the**
 24 **person;**

25 **(2) identifies organizations that need the services of employees**
 26 **described in subdivision (1);**

27 **(3) assigns employees described in subdivision (1) to:**

28 **(A) perform work or services for organizations described**
 29 **in subdivision (2);**

30 **(B) support or supplement the workforces of organizations**
 31 **described in subdivision (2); or**

32 **(C) provide assistance in special work situations, including**
 33 **employee absences, skill shortages, seasonal workloads,**
 34 **and special assignments or projects; and**

35 **(4) customarily attempts to reassign the employees described**
 36 **in subdivision (1) to other organizations when an assignment**
 37 **described in subdivision (3) is completed.**

38 **Chapter 3. Effect on Rights, Duties, and Obligations**

1 **Sec. 1. This article and a professional employer agreement do**
 2 **not affect, modify, or amend:**

- 3 (1) a collective bargaining agreement; or
 4 (2) rights or obligations of a client, PEO, or covered employee
 5 under:

6 (A) the federal National Labor Relations Act (29 U.S.C.
 7 151 et seq.);

8 (B) the federal Railway Labor Act (45 U.S.C. 151 et seq.);

9 or

10 (C) IC 22-7.

11 **Sec. 2. This article and a professional employer agreement do**
 12 **not do the following:**

13 (1) Diminish, abolish, or remove the obligations of a client to
 14 a covered employee that exist before the effective date of the
 15 professional employer agreement.

16 (2) Affect, modify, or amend a contractual relationship or
 17 restrictive covenant:

18 (A) between a covered employee and a client that is in
 19 effect on the effective date of the professional employer
 20 agreement; or

21 (B) that is entered into between a client and a covered
 22 employee after the effective date of the professional
 23 employer agreement.

24 A PEO is not responsible or liable for a dispute in connection
 25 with or arising out of a contractual relationship or restrictive
 26 covenant described in this subdivision unless the PEO has
 27 otherwise specifically agreed in writing.

28 (3) Create a new or additional enforceable right of a covered
 29 employee against a PEO that is not specifically provided by
 30 the professional employer agreement or this article.

31 **Sec. 3. (a) This article and a professional employer agreement do**
 32 **not affect, modify, or amend a federal, state, or local:**

33 (1) license;

34 (2) registration; or

35 (3) certification;

36 **requirement that applies to a client or covered employee.**

37 (b) The following apply to a federal, state, or local requirement
 38 described in subsection (a):

(1) A covered employee who is required to be licensed, registered, or certified is considered solely an employee of the client for purposes of a license, registration, or certification requirement.

(2) A PEO is not considered to engage in an occupation, a trade, a profession, or another activity that is:

(A) subject to a license, registration, or certification requirement; or

(B) otherwise regulated by a governmental entity; solely because the PEO has entered into and maintained a co-employment relationship with a covered employee who is subject to a requirement or regulation described in clause (A) or (B).

(3) A client has the sole right of direction and control of the professional or licensed activities of a covered employee and of the client's business.

(4) Only a:

(A) covered employee; or

(B) client;

that is subject to a requirement or regulation described in subdivision (2)(A) or (2)(B) is subject to the regulation by a regulatory or governmental entity responsible for licensing, registration, certification, or other regulation of the covered employee or client.

Sec. 4. (a) For purposes of determination of tax credits and other economic incentives:

(1) provided by the state or another governmental entity; and

(2) based on employment;

a covered employee is considered an employee solely of the client.

(b) A client is entitled to the benefit of any tax credit, economic incentive, or other benefit arising as the result of the employment of a covered employee of the client.

(c) If the grant or amount of an incentive is based on the number of employees a client employs:

(1) each client must be treated as employing only the covered employees actually working in the client's business operations; and

(2) covered employees working for other clients of the PEO

1 must not be counted.

2 (d) A PEO shall provide, upon request by a client or an agency
3 or a department of the state or of another governmental entity,
4 employment information:

5 (1) reasonably required by an agency or a department of the
6 state or of another governmental entity that is responsible for
7 administration of a tax credit or economic incentive described
8 in this section; and

9 (2) necessary;
10 to support a request, a claim, an application, or another action by
11 a client seeking a tax credit or an economic incentive.

12 Sec. 5. With respect to a bid, a contract, a purchase order, or an
13 agreement entered into with the state or a political subdivision of
14 the state, a client's status or certification as a:

15 (1) small, minority owned, disadvantaged, or woman owned
16 business enterprise; or

17 (2) historically underutilized business;

18 is not affected because the client has entered into the professional
19 employment agreement.

20 Chapter 4. Registration

21 Sec. 1. (a) A person shall not:

22 (1) provide professional employer services;

23 (2) advertise that the person:

24 (A) is a professional employer organization; or

25 (B) provides professional employer services; or

26 (3) otherwise hold the person out as a professional employer
27 organization;

28 in Indiana unless the person is registered under this article.

29 (b) The registration requirement specified in subsection (a)
30 applies to a person that performs any of the activities specified in
31 subsection (a) regardless of the person's use of any of the following
32 terms:

33 (1) Professional employer organization.

34 (2) PEO.

35 (3) Staff leasing company.

36 (4) Registered staff leasing company.

37 (5) Employee leasing company.

38 (6) Administrative employer.

1 (7) Any other name.

2 **Sec. 2. An applicant for registration under this article shall file**
 3 **with the department the following information:**

4 (1) The name or names under which the applicant conducts
 5 business.

6 (2) The address of the principal place of business of the
 7 applicant and the address of each office the applicant
 8 maintains in Indiana.

9 (3) The applicant's taxpayer or employer identification
 10 number.

11 (4) A list by jurisdiction of each name under which the
 12 applicant has operated in the preceding five (5) years,
 13 including any alternative names, names of predecessors, and,
 14 if known, successor business entities.

15 (5) A statement of ownership that includes the name and
 16 evidence of the business experience of any person that,
 17 individually or acting in concert with one (1) or more other
 18 persons, owns or controls, directly or indirectly, twenty-five
 19 percent (25%) or more of the equity interests of the applicant.

20 (6) A statement of management that includes the name and
 21 evidence of the business experience of any individual who
 22 serves as president, chief executive officer, or otherwise has
 23 the authority to act as senior executive officer of the applicant.

24 (7) A financial statement:

25 (A) setting forth the financial condition of the applicant as
 26 of a date not earlier than one hundred eighty (180) days
 27 before the date the financial statement is submitted to the
 28 department;

29 (B) prepared in accordance with generally accepted
 30 accounting principles; and

31 (C) reviewed by an independent certified public accountant
 32 licensed to practice in the jurisdiction in which the
 33 accountant is located.

34 **Sec. 3. (a) A PEO that is operating in Indiana on January 1,**
 35 **2006, shall complete the PEO's initial registration not later than**
 36 **July 1, 2006.**

37 (b) An initial registration under subsection (a) is valid until the
 38 end of the PEO's first fiscal year end that occurs after December

1 **31, 2006.**

2 **(c) A PEO that is not operating in Indiana on December 31,**
 3 **2005, shall complete the PEO's initial registration before**
 4 **commencement of operations in Indiana.**

5 **Sec. 4. A PEO shall, not more than one hundred eighty (180)**
 6 **days after the end of the PEO's fiscal year, renew the PEO's**
 7 **registration by filing a statement notifying the department of any**
 8 **changes in the information provided in the PEO's most recent**
 9 **registration or renewal.**

10 **Sec. 5. A PEO group may satisfy the reporting and financial**
 11 **requirements of this chapter on a combined or consolidated basis**
 12 **if each member of the PEO group guarantees the obligations under**
 13 **this article of each other member of the PEO group.**

14 **Sec. 6. (a) A PEO that is not domiciled in Indiana is eligible for**
 15 **a limited registration under this article if the PEO:**

16 **(1) submits a properly executed request for limited**
 17 **registration on a form prescribed by the department;**
 18 **(2) is licensed or registered as a professional employer**
 19 **organization in another state that has licensure or registration**
 20 **requirements that are:**

21 **(A) substantially the same as; or**

22 **(B) more restrictive than;**

23 **the requirements of this article;**

24 **(3) does not:**

25 **(A) maintain an office; or**

26 **(B) directly solicit clients located or domiciled;**

27 **in Indiana; and**

28 **(4) does not have more than fifty (50) covered employees who**
 29 **are employed or domiciled in Indiana on any day.**

30 **(b) A limited registration is valid for one (1) year and may be**
 31 **renewed.**

32 **(c) A PEO that seeks limited registration under this section shall**
 33 **provide to the department information and documentation**
 34 **necessary to show that the PEO qualifies for a limited registration.**

35 **(d) IC 27-16-6-1(1) does not apply to a PEO that applies for**
 36 **limited registration under this section.**

37 **Sec. 7. The department shall adopt rules under IC 4-22-2 to**
 38 **provide for registration of a PEO without compliance with this**

chapter and IC 27-16-6 by the commissioner's acceptance of an affidavit or a certification:

- (1) provided by a bonded, independent, and qualified assurance organization that has been approved by the commissioner; and
- (2) that certifies the qualifications of a professional employer organization.

Sec. 8. The department shall maintain a list of PEOs that are registered under this article.

Sec. 9. The department may prescribe forms necessary to promote the efficient administration of this chapter.

Sec. 10. All records, reports, and other information obtained from a PEO under this chapter, except to the extent necessary for the proper administration of this chapter by the department, are confidential.

Chapter 5. Fees

Sec. 1. Upon filing an initial registration application under IC 27-16-4-2, a PEO shall pay an initial registration fee not to exceed five hundred dollars (\$500).

Sec. 2. Upon the filing of an annual renewal of a registration under IC 27-16-4-4, a PEO shall pay a renewal fee not to exceed two hundred fifty dollars (\$250).

Sec. 3. Upon initial application for limited registration under IC 27-16-4-6 and upon each annual renewal of the limited registration, a PEO shall pay a fee not to exceed two hundred fifty dollars (\$250).

Sec. 4. The department shall adopt rules under IC 4-22-2 to specify any fee to be charged for a PEO group registration.

Sec. 5. A PEO seeking registration under IC 27-16-4-7 shall pay an initial and annual fee not to exceed two hundred fifty dollars (\$250).

Sec. 6. (a) The department shall adopt rules under IC 4-22-2 to specify any other fee to be charged under this article.

(b) A fee:

- (1) for which the amount is not specified in; and
- (2) that is charged under;

this article must not exceed the amount reasonably necessary for the administration of this article.

1 **Sec. 7. Fees collected under this chapter shall be deposited in the**
 2 **department of insurance fund established by IC 27-1-3-28.**

3 **Chapter 6. Financial Requirements**

4 **Sec. 1. (a) A PEO shall maintain either:**

5 **(1) subject to section 2 of this chapter, a minimum net worth**
 6 **of fifty thousand dollars (\$50,000); or**

7 **(2) subject to subsection (b), a bond with a market value of at**
 8 **least fifty thousand dollars (\$50,000).**

9 **(b) A bond described in subsection (a)(2) must be held by a**
 10 **depository designated by the department, securing payment by the**
 11 **PEO of all taxes, wages, benefits, or other entitlement due to or**
 12 **with respect to covered employees in the event that the PEO does**
 13 **not make the payments when due.**

14 **Sec. 2. A bond described in section 1(a)(2) of this chapter must**
 15 **not be included in the calculation of the minimum net worth**
 16 **described in section 1(a)(1) of this chapter.**

17 **Chapter 7. General Requirements and Provisions**

18 **Sec. 1. Except as provided in a professional employer**
 19 **agreement, the following apply to a co-employment relationship:**

20 **(1) The client:**

21 **(A) may exercise and enforce all rights; and**

22 **(B) is obligated to perform all duties and responsibilities;**
 23 **that otherwise apply to an employer in an employment**
 24 **relationship, that are allocated to the client by the professional**
 25 **employer agreement and this article, and that are not**
 26 **specifically allocated to the PEO by the professional employer**
 27 **agreement and this article.**

28 **(2) The PEO:**

29 **(A) may exercise and enforce only the rights; and**

30 **(B) is obligated to perform only the duties and**
 31 **responsibilities;**

32 **that are required of the PEO or specifically allocated to the**
 33 **PEO by this article and the professional employer agreement.**

34 **(3) Unless otherwise expressly agreed by the PEO and the**
 35 **client in the professional employer agreement, the client**
 36 **retains the exclusive right to direct and control the covered**
 37 **employees as necessary to:**

38 **(A) conduct the client's business;**

- (B) discharge the client's fiduciary responsibilities; or**
- (C) comply with licensure requirements that apply to the client or the covered employees.**

Sec. 2. (a) Except as provided in this article, the co-employment relationship between a client and a PEO, and between a co-employer and a covered employee, is governed by the professional employer agreement.

(b) A professional employer agreement must specify the following:

(1) The allocation of rights, duties, and responsibilities described in section 1 of this chapter.

(2) Except as provided in subsection (c), that the PEO is responsible for:

- (A) payment of wages to covered employees;**
- (B) withholding, collection, reporting, and remittance of payroll related and unemployment taxes; and**
- (C) to the extent the PEO has assumed responsibility in the professional employer agreement, making payments for employee benefits for covered employees.**

(3) The allocation, to either the client or the PEO, of the responsibility to obtain worker's compensation coverage for covered employees from a worker's compensation insurer that is authorized under this title to conduct the business of insurance in Indiana.

(4) If the professional employer agreement allocates the responsibility under subdivision (3) to the PEO, a requirement that the PEO maintain and provide to the client, at the client's request at the termination of the professional employer agreement, records regarding loss experience related to the worker's compensation insurance coverage.

(c) A PEO is not responsible for an obligation between a client and a covered employee for payments in addition to the covered employee's salary, draw, or regular rate of pay, including bonuses, commissions, severance pay, deferred compensation, profit sharing, or vacation, sick, or other paid time off, unless the PEO has expressly agreed to assume liability for the payments in the professional employer agreement.

Sec. 3. A PEO shall provide written notice to each covered

1 employee who is affected by a professional employer agreement
 2 entered into by the PEO concerning the general nature of the
 3 co-employment relationship between and among the PEO, the
 4 client, and the covered employee.

5 Sec. 4. (a) Except as expressly provided by the professional
 6 employer agreement:

7 (1) a client:

8 (A) is solely responsible for:

9 (i) the quality, adequacy, or safety of goods or services
 10 produced or sold in the client's business;

11 (ii) directing, supervising, training, and controlling the
 12 work of a covered employee with respect to the business
 13 activities of the client; and

14 (iii) the acts, errors, or omissions of a covered employee
 15 with respect to activities described in item (ii); and

16 (B) is not liable for the acts, errors, or omissions of:

17 (i) the PEO; or

18 (ii) a covered employee of the client and a PEO when the
 19 covered employee is acting under the express direction
 20 and control of the PEO.

21 (2) A PEO is not liable for the acts, errors, or omissions of a
 22 client or a covered employee of the client when the covered
 23 employee is acting under the express direction and control of
 24 the client.

25 (3) A covered employee is not, solely as the result of being a
 26 covered employee of a PEO, an employee of the PEO for
 27 purposes of:

28 (A) general liability insurance;

29 (B) fidelity bonds;

30 (C) surety bonds;

31 (D) employer's liability that is not covered by worker's
 32 compensation; or

33 (E) liquor liability insurance;

34 carried by the PEO unless the covered employee is specified
 35 as an employee of the PEO by specific reference in the
 36 professional employer agreement and any applicable
 37 prearranged employment contract, insurance contract, or
 38 bond.

(b) This section does not limit:

- (1) a contractual liability or obligation specified in a professional employer agreement; or**
- (2) the liabilities and obligations of a PEO or client as specified in this article.**

Sec. 5. A PEO that offers, markets, sells, administers, or provides professional employer services under a professional employer agreement as provided in this article is not:

- (1) engaged in the business of insurance; or**
- (2) acting as an administrator (as defined in IC 27-1-25-1).**

Sec. 6. (a) A business license fee or other fee that is based upon gross receipts must, in the case of a PEO, be based upon the administrative fee of the PEO.

(b) A tax assessed on a per capita or per employee basis must be assessed against a:

- (1) client for covered employees; and**
- (2) PEO for the PEO's employees who are not covered employees.**

(c) In the case of tax imposed or calculated upon the basis of total payroll, a PEO is eligible to apply a small business allowance or exemption available to the client for covered employees for the purpose of computing the tax.

Chapter 8. Benefit Plans

Sec. 1. A client and a PEO are each considered to be an employer for purposes of sponsoring retirement and welfare benefit plans for covered employees.

Sec. 2. A fully insured welfare benefit plan offered to covered employees of a single PEO is:

- (1) considered to be a single employer welfare benefit plan; and**
- (2) not a multiple employer welfare arrangement (as defined in IC 27-1-34-1(b)) and is not required to comply with IC 27-1-34.**

Sec. 3. For purposes of IC 27-8-15, all covered employees of a PEO participating in a group health benefit plan sponsored by the PEO are considered to be:

- (1) employees of the PEO; and**
- (2) participating in a single employer plan.**

1 **Sec. 4. If a PEO offers to the PEO's covered employees a health**
 2 **benefit plan that is not fully insured by an insurer authorized**
 3 **under this title to conduct the business of insurance in Indiana, the**
 4 **health benefit plan must:**

5 (1) be administered by an administrator licensed under
 6 IC 27-1-25;

7 (2) hold all plan assets, including participant contributions, in
 8 a trust account;

9 (3) provide sound reserves for the health benefit plan as
 10 determined using generally accepted actuarial standards as set
 11 forth in an actuarial opinion filed with the commissioner and
 12 prepared and signed by a qualified actuary who:

13 (A) is a member in good standing of the American
 14 Academy of Actuaries; and

15 (B) meets the requirements established by the
 16 commissioner in rules adopted under IC 4-22-2;

17 (4) annually submit current audited financial statements to
 18 the commissioner;

19 (5) at the discretion of the commissioner, possess a written
 20 commitment, binder, or policy for stop-loss insurance:

21 (A) issued by an insurer authorized to conduct the business
 22 of insurance in Indiana; and

23 (B) that meets any specific and total coverage requirements
 24 established by the commissioner in rules adopted under
 25 IC 4-22-2;

26 (6) be subject to audit for compliance with the requirements
 27 of this section by the department on a random basis or upon
 28 a finding of reasonable need; and

29 (7) provide written notice to each covered employee
 30 participating in the health benefit plan that the health benefit
 31 plan is:

32 (A) self-insured or not fully insured; and

33 (B) subject to the federal Employee Retirement Income
 34 Security Act of 1974 (29 U.S.C. 1001 et seq.).

35 **Chapter 9. Worker's Compensation**

36 **Sec. 1. Subject to the specification required under**
 37 **IC 27-16-7-2(b)(3), a client and a PEO are both considered the**
 38 **employer of a covered employee for purposes of coverage under**

1 IC 22-3-2 through IC 22-3-7.

2 Sec. 2. The protection of the exclusive remedy provisions of
3 IC 22-3-2-6 and IC 22-3-7-6 apply to the PEO, the client, and each
4 covered employee and other employee of the client regardless of
5 whether the PEO or the client is responsible to obtain the worker's
6 compensation coverage for the covered employees under the
7 professional employer agreement.

8 **Chapter 10. Unemployment Compensation Insurance**

9 Sec. 1. (a) For purposes of IC 22-4, a covered employee of a PEO
10 is an employee of the PEO.

11 (b) A PEO is responsible for the payment of contributions,
12 penalties, and interest on wages paid by the PEO to the PEO's
13 covered employees during the term of the professional employer
14 agreement.

15 Sec. 2. A PEO shall report and pay all required contributions to
16 the unemployment compensation fund as required by IC 22-4-10
17 using the state employer account number and the contribution rate
18 of the PEO.

19 Sec. 3. Upon the:

- 20 (1) termination of a professional employer agreement; or
21 (2) failure by a PEO to submit reports or make tax payments
22 as required under this article;

23 the client must be treated by the department of workforce
24 development as a new employer without a previous experience
25 record unless the client is otherwise eligible for an experience
26 rating.

27 SECTION 96. IC 34-30-2-119.7 IS ADDED TO THE INDIANA
28 CODE AS A NEW SECTION TO READ AS FOLLOWS
29 [EFFECTIVE JULY 1, 2005]: Sec. 119.7. IC 27-16-3-2(2)
30 (Concerning a dispute involving a professional employer
31 organization).".

32 Page 40, after line 20, begin a new paragraph and insert:

33 "SECTION 99. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding
34 IC 27-16-4-7, as added by this act, the department of insurance
35 shall carry out the duties imposed upon it under IC 27-16-4-7
36 under interim written guidelines approved by the insurance
37 commissioner.

38 (b) This SECTION expires on the earlier of the following:

1 **(1) The date rules are adopted under IC 27-16-4-7.**

2 **(2) December 31, 2006.**

3 SECTION 100. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding**
4 **IC 27-16-5-4, as added by this act, the department of insurance**
5 **shall carry out the duties imposed upon it under IC 27-16-5-4**
6 **under interim written guidelines approved by the insurance**
7 **commissioner.**

8 **(b) This SECTION expires on the earlier of the following:**

9 **(1) The date rules are adopted under IC 27-16-5-4.**

10 **(2) December 31, 2006.**

11 SECTION 101. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding**
12 **IC 27-16-5-6, as added by this act, the department of insurance**
13 **shall carry out the duties imposed upon it under IC 27-16-5-6**
14 **under interim written guidelines approved by the insurance**
15 **commissioner.**

16 **(b) This SECTION expires on the earlier of the following:**

17 **(1) The date rules are adopted under IC 27-16-5-6.**

18 **(2) December 31, 2006.**

19 SECTION 102. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding**
20 **IC 25-4-1-3, as amended by this act, the board of registration for**
21 **architects and landscape architects shall carry out the duties**
22 **imposed upon it by IC 25-4-1-3, as amended by this act, under**
23 **interim written guidelines approved by the executive director of the**
24 **Indiana professional licensing agency.**

25 **(b) This SECTION expires on the earlier of the following:**

26 **(1) The date rules are adopted by the board of registration for**
27 **architects and landscape architects.**

28 **(2) December 31, 2006.**

29 SECTION 103. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding**
30 **IC 25-21.5-2-14(b), as amended by this act, the state board of**
31 **registration for land surveyors shall carry out the duties imposed**
32 **upon it by IC 25-21.5-2-14(b), as amended by this act, under**
33 **interim written guidelines approved by the executive director of the**
34 **Indiana professional licensing agency.**

35 **(b) This SECTION expires on the earlier of the following:**

36 **(1) The date rules are adopted by the state board of**
37 **registration for land surveyors.**

38 **(2) December 31, 2006.**

1 SECTION 104. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding
 2 IC 25-31-1-7(a), as amended by this act, the state board of
 3 registration for professional engineers shall carry out the duties
 4 imposed upon it by IC 25-31-1-7(a), as amended by this act, under
 5 interim written guidelines approved by the executive director of the
 6 Indiana professional licensing agency.

7 (b) This SECTION expires on the earlier of the following:

8 (1) The date rules are adopted by the state board of
 9 registration for professional engineers.

10 (2) December 31, 2006.

11 SECTION 105. [EFFECTIVE JUNE 1, 2005] (a) As used in this
 12 SECTION, "board" refers to the state board of massage therapy
 13 established by IC 25-21.8-3-1, as added by this act.

14 (b) The governor shall make initial appointments to the board
 15 not later than July 1, 2005. The initial members of the board shall
 16 serve for the following terms:

17 (1) The three (3) members appointed under IC 25-21.8-3-2(1),
 18 as added by this act, serve for two (2) years.

19 (2) The two (2) members appointed under IC 25-21.8-3-2(2),
 20 as added by this act, serve for three (3) years.

21 (c) An individual who does not meet the requirements of
 22 IC 25-21.8-3-2(1), as added by this act, may be appointed to the
 23 board if the individual:

24 (1) substantially meets the requirements of licensure under
 25 IC 25-21.8, as added by this act;

26 (2) currently practices massage or massage therapy in
 27 Indiana; and

28 (3) has practiced massage or massage therapy in Indiana after
 29 June 1, 2002, for at least three (3) consecutive years.

30 (d) This SECTION expires July 1, 2009.

31 SECTION 106. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding
 32 IC 25-21.8-5-3, as added by this act, the state board of massage
 33 therapy established by IC 25-21.8-3-1, as added by this act, may
 34 issue a license before July 1, 2007, to an applicant who practiced
 35 massage or massage therapy in Indiana after June 30, 2000, and
 36 before July 1, 2005, if the applicant meets the condition set forth in
 37 one (1) of the following subdivisions:

38 (1) Provides the board with two (2) of the following:

- 1 **(A) Letters of recommendation from three (3) of the**
2 **following:**
- 3 **(i) A licensed physician.**
4 **(ii) A massage therapy client.**
5 **(iii) A member of the clergy.**
6 **(iv) An employer that employs the applicant in the**
7 **practice of massage or massage therapy.**
- 8 **(B) Internal Revenue Service income tax return forms**
9 **from two (2) consecutive years that reflect that the**
10 **applicant has been employed in the practice of massage or**
11 **massage therapy.**
- 12 **(C) A schedule book of massage or massage therapy clients**
13 **from two (2) consecutive years.**
- 14 **(2) Provides proof of current membership in good standing in**
15 **a massage or massage therapy professional association that**
16 **requires at least five hundred (500) hours of supervised**
17 **classroom instruction as a condition of membership.**
- 18 **(3) Provides a copy of a diploma, transcript, certificate, or**
19 **another proof of completion of:**
- 20 **(A) a massage school accredited by:**
- 21 **(i) the Indiana commission on proprietary education**
22 **established by IC 20-1-19-2; or**
23 **(ii) another state where the standards for massage**
24 **therapy education are substantially equivalent to the**
25 **standards in Indiana; or**
- 26 **(B) a program at an institution of higher learning that is**
27 **approved by the board.**
- 28 **(b) An applicant who begins practicing massage or massage**
29 **therapy in Indiana after June 30, 2005, must meet the licensing**
30 **requirements set forth in IC 25-21.8, as added by this act, to be**
31 **licensed in Indiana.**
- 32 **(c) Notwithstanding IC 25-21.8-5-3 and IC 25-21.8-6, both as**
33 **added by this act, the state board of massage therapy may issue a**
34 **license to an applicant who:**
- 35 **(1) before March 1, 2005, enrolled in a massage therapy school**
36 **or program that required at least five hundred (500) hours of**
37 **supervised classroom instruction if the school or program was**
38 **in good standing with any state, regional, or national agency**

1 of government charged with regulating massage therapy or
2 programs; and

3 (2) before January 1, 2006, completes the requirements of the
4 massage therapy school or program described in subdivision
5 (1).

6 (d) This SECTION expires July 1, 2008.

7 SECTION 107. [EFFECTIVE JULY 1, 2005] (a) Before July 1,
8 2007, the state board of massage therapy established by
9 IC 25-21.8-3-1, as added by this act, shall:

10 (1) adopt a licensing examination;

11 (2) approve an examination other than the National
12 Certification Examination for Therapeutic Massage and
13 Bodywork (NCETMB); or

14 (3) approve an equivalent massage examination accredited by
15 the National Commission for Certifying Agencies (NCCA);

16 that an individual may use as the basis for complying with
17 IC 25-21.8-5-3(1)(D), as added by this act.

18 (b) This SECTION expires December 31, 2007.

19 SECTION 108. [EFFECTIVE JULY 1, 2005] IC 25-21.8-8-1(b), as
20 added by this act, applies only to acts committed after June 30,

- 1 **2005.**
- 2 SECTION 109. **An emergency is declared for this act."**
- 3 Renumber all SECTIONS consecutively.
 (Reference is to SB 139 as printed February 11, 2005.)

and when so amended that said bill do pass.

Representative Torr